

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

DONALD PRICE,)
)
Plaintiff,)
)
vs.) **Case No. CV 04-S-3258-M**
)
DR. LAWRENCE and)
NURSE WHITEHEAD,)
)
Defendants.)

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on November 1, 2007, recommending that the defendants' special report be treated as a motion for summary judgment and, as such, that it be GRANTED and that the plaintiff's federal law claims be dismissed with prejudice. The magistrate judge further recommended that any state law claims be dismissed without prejudice, pursuant to 28 U.S.C. § 1367(c)(3). No objections have been filed by any party.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Court is of the opinion that the magistrate judge's report is due to be, and it hereby is ADOPTED, and his recommendation is ACCEPTED. The Court EXPRESSLY FINDS that there are no genuine issues of material fact and that the defendants are entitled to judgment as a

matter of law. Accordingly, defendants' motion for summary judgment is due to be GRANTED and the plaintiff's federal law claims are due to be DISMISSED WITH PREJUDICE. To the extent that any state law claims are pled in the complaint, they are due to be DISMISSED WITHOUT PREJUDICE pursuant to 28 U.S.C. § 1367(c)(3). A Final Judgment will be entered.

The Clerk is DIRECTED to serve a copy of this order upon the plaintiff and upon counsel for the defendants.

DONE this 27th day of November, 2007.



Lynnwood Smith
United States District Judge